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Nos. 548-549

In the Supreme Court

of the United States

OCTOBER TERM — 1952

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.

Motion for Leave to File a Brief as Amici Curiae

and

Brief of Local 8, International Longshoremen's and Warehousemen's Union of Portland, Oregon, Local 50, International Longshoremen's and Warehousemen's Union of Astoria, Oregon, Local 21, International Longshoremen's and Warehousemen's Union of Longview, Washington, Auxiliary of Local 12, International Longshoremen's and Warehousemen's Union of Coos Bay, Oregon, Auxiliary of Local 11, International Longshoremen's and Warehousemen's Union of Vancouver, Washington, as Amici Curiae

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1-53

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INDEX

	Page
Adamson v. California, 332 U.S. 46	7
Choy Yuen Chan v. United States, 30 F. 2d 516	7
Kotteakos v. United States, 326 U.S. 711	9
Louisiana v. Resweber, 329 U.S. 459	6-7
United States v. Anzalone, 197 F. 2d 714	8
United States v. McElvain, 272 U.S. 633	8
United States v. Marzani, 168 F. 2d 133	8
United States v. Noveck, 271 U.S. 201	8
United States v. Obermeier, 186 F. 2d 243	8
United States v. Scharton, 285 U.S. 518	8
Yick Wo v. Hopkins, 118 U.S. 356	8

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TO THE HONORABLE THE CHIEF JUSTICE OF THE UNITED STATES AND THE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

Comes now Local 8, International Longshoremen's and Warehousemen's Union of Portland, Oregon, Local 50, International Longshoremen's and Warehousemen's

Union of Astoria, Oregon, Local 21, International Longshoremen's and Warehousemen's Union of Longview, Washington, Auxiliary of Local 12, International Longshoremen's and Warehousemen's Union of Coos Bay, Oregon, Auxiliary of Local 11, International Longshoremen's and Warehousemen's Union of Vancouver, Washington, and moves this Court pursuant to Rule 27, paragraph 6 of the Rules of Court, for leave to file the accompanying brief as amicus curiae. The consent of the attorney for the petitioners herein has been obtained and filed with the Clerk of the Court. The consent of the attorney for respondent was requested and denied by letter dated January 13, 1953.

The interests of said Local 8, International Longshoremen's and Warehousemen's Union of Portland, Oregon, Local 50, International Longshoremen's and Warehousemen's Union of Astoria, Oregon, Local 21, International Longshoremen's and Warehousemen's Union of Longview, Washington, Auxiliary of Local 12, International Longshoremen's and Warehousemen's Union of Vancouver, Washington, and their reasons for asking leave to file a brief as amicus curiae are as follows:

Movants are locals and auxiliary locals of the International Longshoremen's and Warehousemen's Union representing approximately 3,000 members of the longshore industry, and their members have a strong feeling that the persistent and relentless trials against Bridges have been solely because of his leadership in the International Longshoremen's and Warehousemen's Union.

Your petitioner is also concerned with the fact of the singling out of the petitioners in the within cause for special treatment and the application with respect to the laws governing the Statute of Limitations and criminal procedure. It appears that the laws have been given a completely different interpretation in so far as the within petitioners are concerned, than they have been given for any one else who has come within the said laws. It is the belief of these movants and their members then that the petitioners have not been afforded due process of law nor equal protection of the laws of these United States.

Respectfully submitted,

LOCAL 8, INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION OF PORTLAND, OREGON,

LOCAL 50, INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION OF ASTORIA, OREGON,

LOCAL 21, INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION OF LONGVIEW, WASHINGTON,

AUXILIARY OF LOCAL 12, INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION OF COOS BAY, OREGON,

AUXILIARY OF LOCAL 11, INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION OF VANCOUVER, WASHINGTON,

By: .....

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Portland, Oregon.

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By leave of Court first had and obtained, Local 8, International Longshoremen's and Warehousemen's Union of Portland, Oregon, Local 50, International Longshoremen's and Warehousemen's Union of Astoria, Oregon, Local 21, International Longshoremen's and Warehousemen's Union of Longview, Washington, Aux-

iliary of Local 12, International Longshoremen's and Warehousemen's Union of Coos Bay, Oregon, Auxiliary of Local 11, International Longshoremen's and Warehousemen's Union of Vancouver, Washington, herewith file the following brief as amicus curiae in the above-entitled cause and urge the Court that the petition for certiorari now prayed for by petitioners be granted.

I.

For almost twenty years now Harry Renton Bridges has been the object of a relentless crusade unique in the annals of American jurisprudence. That this crusade commenced with Bridges' emergence as an outstanding trade union leader in the great San Francisco strike of 1934, is of considerable concern to all who believe that a strong vigorous and militant trade union movement is an essential element of American democracy. That the chief instigators and moving figures of this crusade were either anti-labor elements or professional patrioteers, is also of concern to those who believe that such forces represent unhealthy elements in any democratic society.

Although the Court of Appeals for the Ninth Circuit made reference to the long history of proceedings against Bridges, it failed to appreciate their full significance. Contrary to the reasoning of many cases decided by this Court, it held that such a long continued series of persecutions did not deprive Bridges of due process of law. Mr. Justice Frankfurter has said that due process of law requires that there be no "brutal subjection of an individual to successive retrials". *Louisiana v. Resweber*, 329

U. S. 459. And the Court below, over twenty years ago, said that due process of law prohibited the government from requiring that one lawfully admitted be "called upon again and again to prove his right to remain." *Choy Yuen Chan v. United States*, 30 F. 2d 516.

It would seem that by disregarding what has been done to Bridges for the last twenty years, the Court below ignored the fact that such a course of conduct "offend(ed) those canons of decency and fairness which express the notions of justice of English speaking peoples." *Adamson v. California*, 332 U.S. 46. The due process clause, protecting as it does, the "ultimate decency in a civilized society", (ibid. at 61) should not permit what has been done here to go unchallenged. At the very least, it requires this Court to review the proceedings below to see whether or not they measure up to the standards which this Court has applied in so many other cases.

II.

Movant is also concerned with what appears to have been a discriminatory application of judicial principles to Bridges and his associates. This Court, and every other Circuit Court of Appeals which has had occasion to consider the question, has held that a perjurious or false statement, whether in connection with so-called "tax frauds" or "naturalization frauds" or "citizenship frauds" or "employment frauds" is not within the scope and effect of the Wartime Suspension Act. And in every single case but this one, an indictment, or the counts thereof, based upon such a false statement made more

than three years before the return day, has been dismissed.

United States v. Noveck, 271 U.S. 201.
United States v. McElvain, 272 U.S. 633.
United States v. Scharton, 285 U.S. 518.
United States v. Marzani, 168 F. 2d 133.
United States v. Obermeier, 186 F. 2d 243.

See also *United States v. Anzalone*, 197 F. 2d 714.

The Court below ignored these cases and applied a special rule to Bridges and his associates. Not only because this decision squarely conflicts with the decisions of this Court and those of other courts of appeals should this Court grant the petition for certiorari, but also because such judicial discrimination against the petitioners is, as to them, a denial of due process of law. Compare this situation with *Yick Wo v. Hopkins*, 118 U.S. 356, where it was held that discrimination in the application of an otherwise valid statute constituted a denial of equal protection of the laws.

Furtherfore, the Court below approved the trial court's application to this case, and this case alone, of an instruction that a reasonable doubt meant a doubt for which "a good reason could be assigned". So far as we know, no court has ever approved such an instruction before. As a matter of fact, the Court of Appeals stated that such an instruction was not to be "commended". It did not consider how that instruction together with other conduct of the trial court, such as an improper limitation of the right of cross examination to the defendants, hostile and prejudicial comments by the trial judge during

the course of the trial, and other similar matters, resulted in the kind of error which must require reversal. *Kotteakos v. United States*, 326 U.S. 711.

For this radical departure from normal rules governing the administration of criminal law, and in order that the trial courts may be properly advised concerning their duties and obligations in criminal cases, this Court should grant the petition and rule upon the questions presented.

It appears significant to us that only in the case involving Bridges and his associates was such a wide departure from the normal rules condoned by an appellate court.

For the foregoing reasons, amicus curiae joins in the prayer of petitioners that the writ of certiorari be granted and the entire cause be reviewed by this Court.

Respectfully submitted,

LOCAL 8, INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION OF PORTLAND, OREGON,

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